



Protection of Vulnerable Groups (Scotland) Act 2007

2007 asp 14

PART 1

THE LISTS

Information relevant to listing decisions

17 Information relevant to listing decisions

- (1) Ministers must, before making a decision under section 15 or 16—
 - (a) give the individual whom they are considering whether to list an opportunity to make representations as to why the individual should not be listed, and
 - (b) consider any such representations.
- (2) Ministers may, when deciding whether to list an individual, also consider—
 - (a) any information which caused them to consider listing the individual,
 - (b) any information relating to the individual which they obtain—
 - (i) in pursuance of a requirement made under any of sections 18 to 20, or
 - (ii) by performing their functions in relation to the Scheme, and
 - (c) any other information which they think relevant.
- (3) An individual who is given an opportunity to make representations under subsection (1) must be given the opportunity to make representations in relation to all of the information on which Ministers intend to rely in deciding whether to list the individual.
- (4) The opportunity to make representations under subsection (1) does not include the opportunity to make representations that any relevant finding of fact was wrongly made.
- (5) A relevant finding of fact is a finding of fact—
 - (a) made in legal proceedings,
 - (b) made in a relevant inquiry report (other than a report relating to an inquiry of the type mentioned in sub-paragraph (ii) of section 31(2)(a)),

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- (c) made in proceedings before one of the following bodies or any of its committees—
- (i) ^{F1}the General Pharmaceutical Council],
 - (ii) the General Chiropractic Council,
 - (iii) the General Dental Council,
 - (iv) the General Medical Council,
 - (v) the General Optical Council,
 - (vi) the General Osteopathic Council,
 - (vii) the General Teaching Council for Scotland,
 - (viii) ^{F2} the Health and Care Professions Council],
 - (ix) the Nursing and Midwifery Council,
 - ^{F3}(x)
 - (xi) the Scottish Social Services Council, ^{F4}...
 - ^{F5}(xii) Social Care and Social Work Improvement Scotland, or]
- (d) made by any other person, or in any other circumstance, specified by order made by Ministers.

- (6) Subsections (1) and (3) do not apply if Ministers do not know and cannot reasonably ascertain the individual's whereabouts.

Textual Amendments

- F1** Words in s. 17(5)(c)(i) substituted (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), s. 97, **sch. 5 para. 12(3)** (with s. 96); S.S.I. 2021/380, reg. 2, sch.
- F2** Words in s. 17(5)(c)(viii) substituted (1.8.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 56(f)**; S.I. 2012/1319, art. 2(4)
- F3** S. 17(5)(c)(x) repealed (1.10.2010 for specified purposes) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 14 para. 29(a)**; S.S.I. 2010/321, art. 3, Sch.
- F4** Word in s. 17(5)(c) repealed (1.10.2010 for specified purposes) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 14 para. 29(b)**; S.S.I. 2010/321, art. 3, Sch.
- F5** S. 17(5)(c)(xii) added (1.10.2010 for specified purposes) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 14 para. 29(c)**; S.S.I. 2010/321, art. 3, Sch.

Commencement Information

- I1** S. 17(1)-(4)(5)(a)-(c)(6) in force at 28.2.2011 by S.S.I. 2011/157, **art. 2(a)**
- I2** S. 17(5)(d) in force at 18.4.2010 for specified purposes by S.S.I. 2010/133, **art. 2, Sch.**
- I3** S. 17(5)(d) in force at 28.2.2011 in so far as not already in force by S.S.I. 2011/157, art. 2(a)

18 Police information etc.

- (1) Ministers may, for the purpose of enabling or assisting them to decide whether to list an individual, require the chief constable ^{F6}... to provide them with any information relating to the individual which the chief constable ^{F7}... thinks might be relevant in relation to the type of regulated work concerned.
- (2) ^{F8}The chief constable] must not provide information to Ministers under subsection (1) if the ^{F9} chief constable] thinks that disclosing it to the individual to whom it relates would be contrary to the interests of the prevention or detection of crime.

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- (3) Ministers must pay the [^{F10} Scottish Police Authority] such fee as Ministers think appropriate for information provided under subsection (1).
- (4) Ministers may, for the purpose of enabling or assisting them to decide whether to list an individual, require—
- (a) any person who holds records of convictions, cautions or other information for the use of police forces generally to provide them with any information relating to the individual which the record holder thinks might be relevant in relation to the type of regulated work concerned,
 - (b) any person who holds such records to provide them with the information referred to in section 113A(3)(a) of the 1997 Act (prescribed details of every relevant matter relating to the individual which is recorded in central records).

Textual Amendments

- F6** Words in s. 18(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 36\(2\)\(a\)\(i\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F7** Words in s. 18(1) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 36\(2\)\(a\)\(ii\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F8** Words in s. 18(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 36\(2\)\(b\)\(i\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F9** Words in s. 18(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 36\(2\)\(b\)\(ii\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F10** Words in s. 18(3) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 36\(2\)\(c\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

Commencement Information

- I4** S. 18 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

19 Information held by public bodies etc.

- (1) Ministers may, for the purpose of enabling or assisting Ministers to decide whether to list an individual, require—
- (a) any person who holds vetting information of a type prescribed under section 49(1)(d) to provide them with any such vetting information relating to the individual,
 - (b) any of the persons set out in subsection (3) to provide them with any information held by the person which Ministers think might be relevant.
- (2) Information provided under subsection (1)(b) may, in particular, be information which relates to—
- (a) the regulated work concerned, or
 - (b) the protection of children or protected adults in general, or of any child or protected adult in particular.
- (3) The persons who may be required to provide information under subsection (1)(b) are—

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Councils

The General Teaching Council for Scotland

Health Boards and Special Health Boards

[^{F11}An integration joint board established by order under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014]

[^{F12} Healthcare Improvement Scotland]

Her Majesty's Chief Inspector of Prisons for Scotland

Her Majesty's Inspectors of Schools

The Registrar of Chiropractors

The registrar of dentists and dental care professionals

The registrar of the General Medical Council

The registrar of the General Optical Council

The Registrar of health professionals

The Registrar of Independent Schools in Scotland

The Registrar of nurses and midwives

The Registrar of Osteopaths

[^{F13} The registrar of pharmacists]

^{F14}
...

The Scottish Social Services Council

[^{F15} Social Care and Social Work Improvement Scotland]

^{F16}
...

Any other person specified in an order made by Ministers

Textual Amendments

- F11** Words in s. 19(3) inserted (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), s. 97, **sch. 5 para. 12(4)** (with s. 96); S.S.I. 2021/380, reg. 2, sch.
- F12** Words in s. 19(3) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 17 para. 36(b)**; S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F13** Words in s. 19(3) substituted (27.9.2010) by The Pharmacy Order 2010 (S.I. 2010/231), art. 1(5), **Sch. 4 para. 16(b)**; S.I. 2010/1621, art. 2(1), Sch.
- F14** S. 19(3) entry repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 14 para. 30(a)**; S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F15** Words in s. 19(3) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 14 para. 30(b)**; S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F16** S. 19(3) entry repealed (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **Sch. 1 para. 19(a)**

Commencement Information

- I5** S. 19(1)(2) in force at 28.2.2011 by S.S.I. 2011/157, **art. 2(a)**
- I6** S. 19(3) in force at 12.10.2010 by S.S.I. 2010/344, **art. 2(a)(ii)**

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20 Information held by regulated work providers

- (1) Ministers may require a person falling within subsection (2) to provide them with any information held by the person which Ministers think might be relevant for the purpose of enabling or assisting them to decide whether to list an individual.
- (2) A person falls within this subsection if—
 - (a) the individual is doing, or has done, regulated work for the person,
 - (b) the individual has been offered regulated work by the person (whether or not the individual subsequently did the work),
 - (c) it is an employment agency which has offered or supplied, or made arrangements with a view to offering or supplying, the individual to another person for regulated work (whether or not the arrangements are still in place),
or
 - (d) it is an employment business which employs or has employed the individual to do regulated work for another person.
- (3) A person who fails, without reasonable excuse, to comply with a requirement made under subsection (1) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

Commencement Information

I7 [S. 20](#) in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6A inserted by [2020 asp 13 s. 80\(2\)](#)
- s. 8(3)(za) inserted by [2020 asp 13 s. 82\(3\)](#)
- s. 10(1)(aa) inserted by [2020 asp 13 s. 80\(3\)](#)
- s. 13A-13C inserted by [2020 asp 13 s. 76\(2\)](#)
- s. 18(5) inserted by [2020 asp 13 sch. 5 para. 5\(2\)\(b\)](#)
- s. 30(3A)-(3C) inserted by [2020 asp 13 s. 77\(3\)](#)
- s. 45A inserted by [2020 asp 13 s. 71](#)
- s. 45B inserted by [2020 asp 13 s. 72](#)
- s. 45C-45G inserted by [2020 asp 13 s. 73\(2\)](#)
- s. 45H inserted by [2020 asp 13 s. 88\(3\)](#)
- s. 46A inserted by [2020 asp 13 s. 79](#)
- s. 49(3) inserted by [2020 asp 13 sch. 5 para. 5\(3\)\(c\)](#)
- s. 70(2)(d) inserted by [2020 asp 13 sch. 5 para. 10\(41\)\(b\)](#)
- s. 77(1A) inserted by [2020 asp 13 sch. 5 para. 10\(46\)\(b\)](#)
- s. 94(2A)(2B) inserted by [2020 asp 13 s. 75\(3\)](#)